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DEPARTMENT OF COMMERCE

International Trade Administration

A-549-821

Polyethylene Retail Carrier Bags from Thailand: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration,
Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

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SUPPLEMENTARY INFORMATION:

Background

On September 28, 2011, the Department of Commerce (the Department) published Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review, 76 FR 59999 (September 28, 2011) (Final Results), in the Federal Register.

We received a timely allegation of a ministerial error pursuant to 19 CFR 351.224(c) from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC and Superbag Corp., the petitioners, alleging that we calculated a constructed value (CV) profit ratio using a denominator that includes direct and indirect selling expenses, but in the margin program we

determined CV profit by applying this ratio to Landblue (Thailand) Co., Ltd.'s (Landblue) cost of production exclusive of direct selling expenses.\1\ This incongruity was unintentional and results in the understatement of CV profit. Although the Department agreed with the petitioners that the alleged error is a ministerial error, the Department was unable to issue a determination correcting this error before parties challenged the Final Results at the Court of International Trade (CIT). On October 25, 2011, the CIT granted the Department leave to amend the Final Results and correct the ministerial error. Therefore, in accordance with 19 CFR 351.224(e), we are hereby amending the Final Results with respect to Landblue to correct the ministerial error in our calculation of Landblue's weighted-average margin, and with respect to the respondents not selected for individual examination in so far as the change in Landblue's weighted-average margin affects their margins.\2\ For details, see the respective memoranda from Bryan Hansen to the File entitled "Polyethylene Retail Carrier Bags from Thailand -- Landblue (Thailand) Co., Ltd., Amended Final Results Analysis Memorandum" and "Polyethylene Retail Carrier Bags from Thailand -- Amended Final Results Margin Calculation for Respondents Not Selected for Individual Examination," dated concurrently with this notice.

\1\ Because Landblue did not have home-market and third-country sales during the period of review, we used the 2010 financial statements of a third company not under review, Thantawan Public Industry Company, to calculate CV profit and CV selling expenses for Landblue.

\2\ For the Final Results, we calculated the margins for respondents not selected for individual examination by using the public, weighted-average margin calculated using the ranged sales values of the selected respondents, Landblue and Thai Plastic Bags Industries Co., Ltd.

Amended Final Results of the Review

As a result of our correction of the ministerial error, we determine that the following percentage weighted-average dumping margins exist for polyethylene

retail carrier bags from Thailand for the period August 1, 2009, through July 31, 2010:

| Producer/Exporter | Percent Margin |
|-------------------------------------|----------------|
| First Pack Co. Ltd. | 28.74 |
| K International Packaging Co., Ltd. | 28.74 |
| Landblue (Thailand) Co., Ltd. | 25.73 |
| Praise Home Industry, Co. Ltd. | 28.74 |
| Siam Flexible Industries Co., Ltd. | 28.74 |
| Thai Jirun Co., Ltd. | 28.74 |

Assessment Rates

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we calculated importer/customer-specific duty-assessment amounts with respect to sales by Landblue by dividing the total dumping margins (calculated as the difference between normal value and the export price) for each importer or customer by the total number of kilograms Landblue sold to that importer or customer. We will direct CBP to assess the resulting per-kilogram dollar amount against each kilogram of merchandise on each of that importer's or customer's entries during the period of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by Landblue for which Landblue did not know its merchandise was destined for the United States. In such instances,

we will instruct CBP to liquidate unreviewed entries of merchandise produced by Landblue at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

For the companies which were not selected for individual examination and which did not submit statements of no shipments, we will instruct CBP to apply the rates listed above to all entries of subject merchandise produced and/or exported by such firms.

The Department intends to issue instructions to CBP 15 days after the publication of these amended final results of review.

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of these amended final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication consistent with section 751(a)(1) of the Tariff Act of 1930, as amended (Act): (1) the cash-deposit rates for the companies subject to the review will be the rates shown above; (2) for previously investigated or reviewed companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous review or the original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash-deposit rate for all other manufacturers or exporters will be 4.69 percent, the all-others rate from the amended final determination of the LTFV investigation revised as a result of the Section 129 determination published on August 12, 2010. See Notice of

Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Polyethylene Retail Carrier Bags From Thailand, 75 FR 48940 (August 12, 2010).

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification Requirements

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Paul Piquado
Assistant Secretary
for Import Administration

October 26, 2011
Date

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